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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 **DARRYL DUNSMORE,**

13
14 Petitioner,

15 v.

16 **PARAMO, Warden,**

17 Respondent.

CASE NO. 13-CV-1193-GPC-(PCL)

**ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL**

[Doc. No. 11]

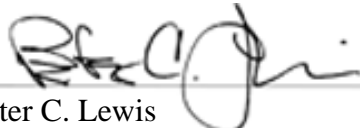
18 Now before the Court is Petitioner's Motion for Appointment of Counsel [Doc. No. 11.] Petitioner
19 requests the appointment of counsel to assist him in prosecuting this civil action. Generally, a person
20 has no right to counsel in civil actions. See Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981).
21 However, a court may under "exceptional circumstances" appoint counsel for indigent civil litigants
22 pursuant to 28 U.S.C. § 1915(e)(1). Agyeman v. Corrs. Corp. Of Am., 390 F.3d 1101, 1103 (9th Cir.
23 2004), *cert. denied sub nom. Gerber v. Agyeman*, 545 U.S. 1128 (2005). When determining whether
24 "exceptional circumstances" exist, a court must consider "the likelihood of success on the merits as well
25 as the ability of the petitioner to articulate his claims pro se in light of the complexity view together.
26 Wilborn v. Escalderson, 789 F.2d 1328, 1331 (9th Cir. 1986). Neither of these factors are dispositive
27 and both must be viewed together before reaching a decision." Wilborn v. Escalderon, 789 F.2d 1328,
28 1331 (9th Cir.1986).

1 In this case, Petitioner alleges that he requires the assistance of counsel because the issues are
2 particularly complex and involve issues of misconduct, due process violations, and perjury.” [Doc. No.
3 11 at 21-23.] Furthermore, Petitioner states that he suffers from both a mental and physical disability.
4 (Id.) Specifically, Petitioner states his mental disability impacts “mental coherency and mental
5 capacity,” and his physical condition renders him unable “to sit for extended period[s] to research and
6 write (sic) papers.” [Doc. No. 11 at 6.] To support his claims, Petitioner offers medical documentation
7 that he was determined to lack the capacity “to make a decision regarding antipsychotic medication,”
8 and that he suffers from ankylosing spondylitis, a form of arthritis. [Doc. No. 11 at 24-32.] Despite this
9 documentation, Petitioner fails to demonstrate how his inability to make decisions regarding
10 antipsychotic medication and his arthritis create “exceptional circumstances” warranting appointment of
11 counsel. Also, Petitioner has not provided any information to support a finding of a likelihood of success
12 on the merits. The Court continues to find that Petitioner’s difficulty in presenting his claims *pro se* are
13 not based on the complexity of the legal issues involved but rather on the general difficulty of litigating
14 *pro se*. Petitioner demonstrates a sufficient understanding of the legal process to be an able litigant
15 which is evidenced by his detailed complaint and objection to this Court’s previous Report and
16 Recommendation. [Doc. Nos. 1, 11.] Also, the claims he states and the issues he raises are not of
17 substantial complexity. Under these circumstances, the Court **DENIES** Petitioner’s request without
18 prejudice, as neither the interests of justice nor exceptional circumstances warrant appointment of
19 counsel at this time. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987); Terrell, 935 F.2d at 1017.

20 Petitioner’s Motion for Appointment of Counsel is **DENIED**.

21 **IT IS SO ORDERED.**

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23 DATE: August 1, 2013


Peter C. Lewis
United States Magistrate Judge

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26 cc: The Honorable Gonzalo P. Curiel
27 All Counsel of Record
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